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July 18, 2002

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
445 Twelfth Street, SW
Room TW A-325
Washington, DC 20544

Re: CC Dkt 02-6 ; Schools and Libraries Universal Service Support Mechanism


Dear Ms. Dortch,

On July 18, representatives from several large local exchange carriers met with members of the Wireline Competition Bureau's Telecommunications Access Policy Division. LEC representatives: a) in attendance - Mary Henze and Harry Cook (BellSouth), Norina Moy (Sprint), Jim Lambertson and Stephanie Beavers (Verizon); and, b) via conference call - Ernie Bond (BellSouth), Patricia Taylor and Gary Kissel (Qwest), Mike Tan (SBC), Barbara Stoll (Sprint), and Dennis Robins (Verizon). WCB staff in attendance: Mark Seifert, Narda Jones, Romanda Williams, Ruth Yodaiken, John Secrest, and Peter Trachtenburg.

The purpose of the meeting was to discuss a number of issues raised in the Commission's rulemaking regarding the Universal Service Schools and Libraries program. All material used during the discussion is attached.

This notice is being filed pursuant to Sec. 1.1206(b)(2) of the Commission's rules. If you have any questions concerning this filing, please do not hesitate to contact me.

Sincerely,



Mary L. Henze

cc: M. Seifert
N. Jones
R. Williams
R. Yodaiken
J. Secrest
P. Trachtenburg

Large LEC E-rate Discussion #2

1. Payment Choice Issue

Choice of whether to use BEAR or discounted billing should be mutually agreed upon by applicant and service provider. Steps to implementing “mutually agreed upon”:

- a. Begin by codifying current mutually agreed upon procedure in FCC rules.
- b. Encourage/require applicants and service providers to:
 - make decision about payment method part of upfront contract negotiations
 - include agreement on payment method as explicit part of contract that is signed.
- c. Making it part of contract negotiation is appropriate because it is a business decision
 - either party can walk away if needs are not met
 - would give both parties recourse to state/local procurement/contract laws.
- d. E-rate service providers should make “good faith” effort to accommodate both payment methods.
- e. However, FCC should explicitly acknowledge that providing both payment methods may not be “reasonably achievable” or “economically reasonable” for some providers due to cost implications, state requirements, etc.
- f. Forcing expensive modifications will increase costs for e-rate providers and discourage some from participating. Keeping program accessible to wide variety of service providers is in best interests of applicants and competition.

2. BEAR Risk Issue

Potential steps to reduce risk of BEAR payments being caught in bankruptcy, etc.

- a. Begin by codifying current BEAR process in FCC rules
- b. Clarify in rules that BEAR payment never “belongs” to service provider; is not an asset of the company, remains an asset of the applicant.
- c. Include explicit instructions and commitments regarding BEAR payment process in the Service Provider Annual Certification
 - require Annual Certification to be signed by officer/senior executive of company

3. Broad Application of Appeal Decisions

Initial action on appeals should apply only to appellants. Question of whether to apply same solution more broadly should be put out for public comment.

Potential criteria for selecting appeals that warrant comment

Commission should use comment procedure when it:

- a. determines that the situations leading to the particular appeal, the issues raised by the parties or Commission staff, or the potential resolution of the appeal may be more generic and have broader application than just to those parties involved in the appeal.
- b. determines that the issue raised is a basic tenet of the USF Schools and Libraries program that deserves public input before a decision is made that potentially affects prospective applicants or service providers.
- c. believes that current program procedures need to be changed or new procedures need to be developed as a result of issues raised in or by an appeal.

Options for implementing comment process

Commission should use one of the following procedural options to seek the benefit of the public comment:

- a. Option One
 - Commission issues a decision on the appeal applying only to the parties involved in the appeal.
 - Commission then issues Public Notice seeking comment/additional information on issues raised as a result of the appeal that may (or may not) require a change in program procedures; get input on proposed procedures.
 - Public comment could raise new issues and create more options than previously determined during review of the appeal.
- b. Option Two
 - Commission defers decision on the appeal that meets criteria.
 - Commission issues Public Notice seeking comment/additional information regarding issues raised by the appeal (would not have to specify which appeal) and the need for and nature of any new program procedures.
 - Comment process would be expedited in order to apply benefit of public comment to specific appeal as well as prospective parties.

4. On Premises Equipment

Problem:

- a. Certain non-traditional providers are obtaining significant USF support from the telecommunications services and Internet access buckets for equipment and facilities (e.g., redundant routers and inside wiring) all the way to the desktop.
- b. Common carriers do not request or obtain such support, based on different interpretation of the FCC's rulings and the SLD's existing eligible services list.
- c. Definition of "On-premise Equipment for End-to-End Service" in Eligible Services Lists is so broad as to appear to allow this outcome.

Ramifications:

- a. Misuse of universal service funds; circumvents intent of priority rules (ineligible services are funded at the expense of applications for eligible services);
- b. Creates competitive imbalances (including build-out of networks capable of providing telecommunications services using Internet Access universal service funds).

Solution:

Modify definition of "On-Premise Equipment for End-to- End Service." First paragraph should read:

In some instances, service providers may install equipment on the premises of schools or libraries as part of their provision of eligible Telecommunications Services or Internet Access. ***The only equipment eligible under this definition will be the first and single piece of network access equipment located on the customer premise.*** That equipment may be considered as part..... [continue with current language]

5. Wide Area Network Issues

A. WANs Differ Depending Upon Provider (see attached diagrams)

1. Wide Area Network provided by telecommunications service provider utilizes already existing public switched network. Portion of facilities are temporarily dedicated to customer while remainder is used to serve other customers. Prices charged for installation and ongoing service are subject to regulation.

2. Wide Area Network provided by non-traditional service provider often involves construction of new network facilities. Entire network is dedicated to single customer's use. While ownership of network remains with service provider, prices charged for installation and on going service are not regulated.

B. Policy Concerns

1. Non-traditional WANs qualify under internet access bucket if "most cost effective" way to get internet.

- Is cost effective test applied? For whom? Applicant or fund?
- What prevents facilities being used by school for telecom?

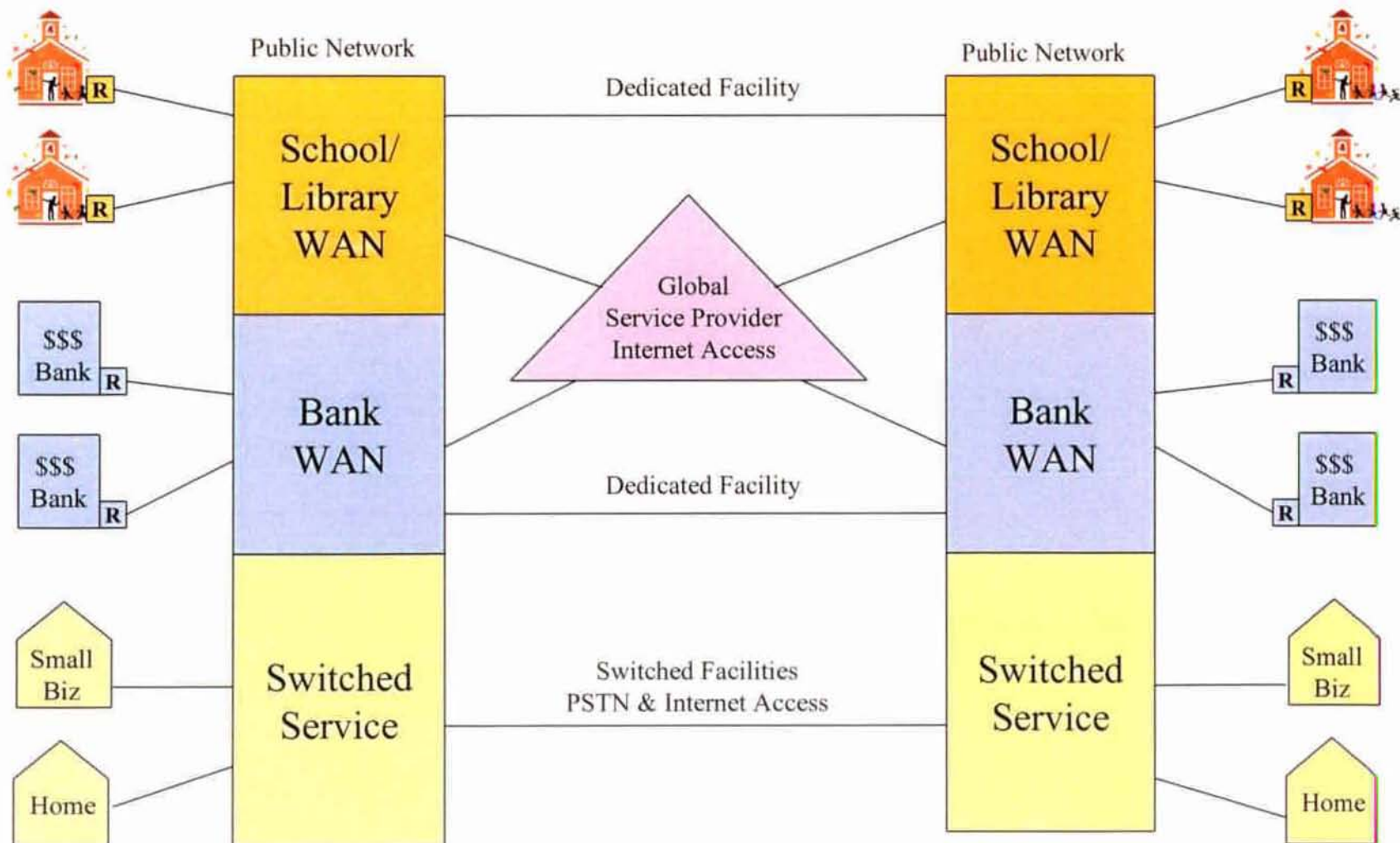
2. Because non-traditional WANs built to serve specific applicant, e-rate fund is subsidizing construction of new private network capacity.

- Is this appropriate use of e-rate funds? Cost effective?
- Is new construction necessary/wise given current glut in network capacity

3. Once facilities are in place and paid for with e-rate subsidies, what prevents service provider from offering service to other entities?

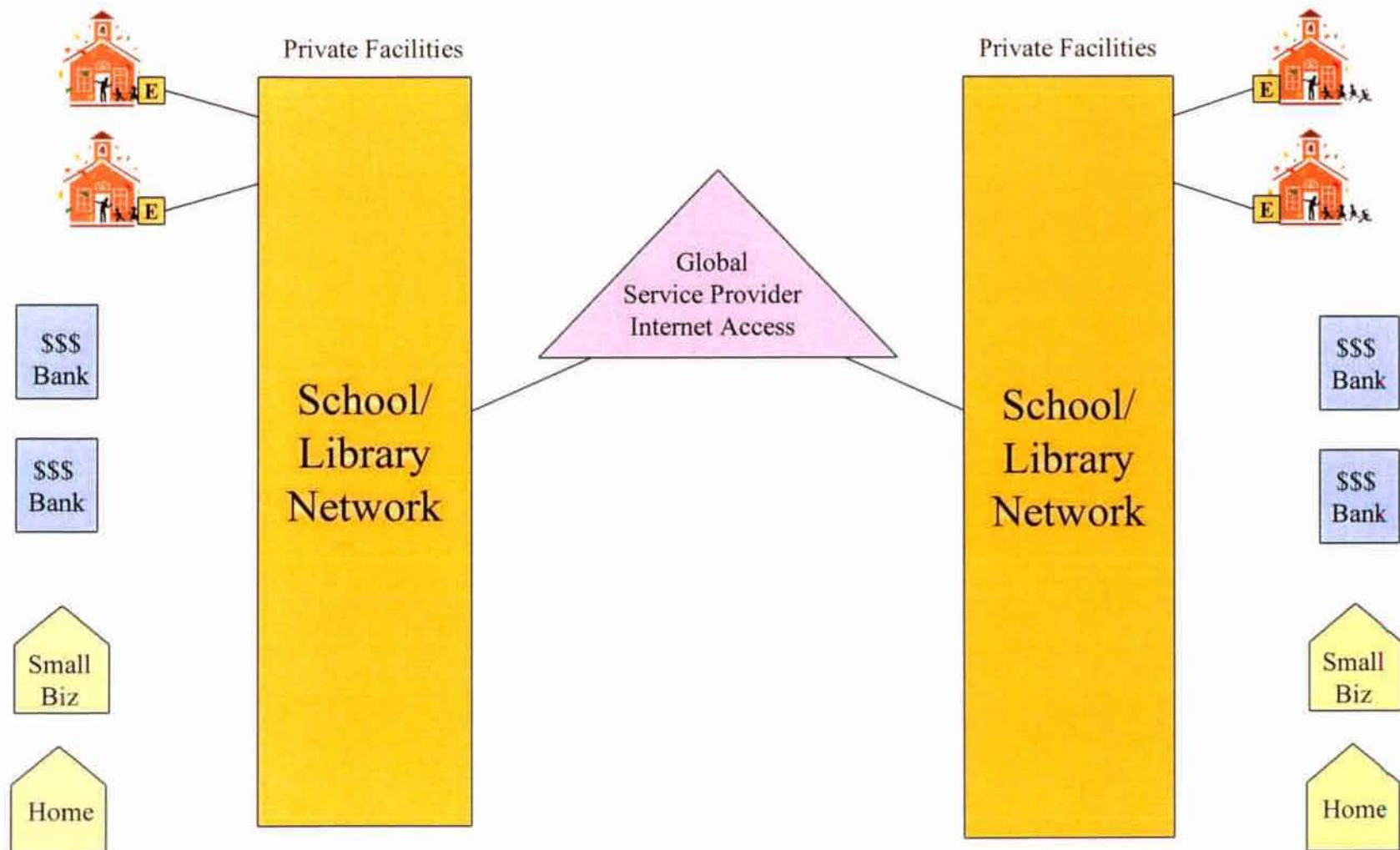
- E-rate funds are being used to subsidize construction of competitive networks
- Non-traditional service providers do not contribute into USF

Common Carrier



R = Router

Non-Traditional Service Provider



E = Electronic Equipment